

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(C)NO.23716 OF 2004

DIVYA DARSHANA

... PETITIONER(S)

VERSUS

GOMA RAM & ORS.

... RESPONDENT(S)

O R D E R

Heard learned counsel for the petitioner and also learned counsel for the 1st Respondent. Learned counsel for the State is not present when the matter is heard.

The petitioner had applied for a mining lease in respect of certain property comprised in Khasra No.316 and the petitioner was granted the mining lease nos.53/01 and 54/01 near village Khatukara in District Pali, Rajasthan. Prior to grant of mining lease it is alleged that the petitioner had obtained permission from the local panchayat and also from the Mining Department and this matter was brought to the notice of the concerned District Collector. It appears that the Collector did not raise any objection to the lease. One of the persons who had allegedly been doing illegal mining operations, filed a petition before the High Court alleging that the petitioner herein has been doing illegal mining activity in a hillock and thereby causing extensive damage to the water flow in that area and also the environment of the hillocks. The High Court, by the impugned judgment, ordered that the Director of Mines shall cancel the license granted to the

petitioner. Except the allegations made in the petition, no detailed reasons are given in the impugned judgment.

When the matter came up before this Court, by order dated 14th August, 2006, this Court had directed that the site be inspected by the C.E.C. The C.E.C. has filed a report on 2.2.2007. Several reasons have been given by the C.E.C. and it opined that the mining activity in this area is likely to adversely affect the flow of seasonal streams which help in filling the large village pond (reservoir) and it may also cause flow of debris from the mines into the pond. The petitioner herein filed objection to the report filed by the C.E.C. and the petitioner has also alleged that the flow of water to the streams will not be affected by the mining activity. As the High Court had not got any opportunity to consider these facts into consideration, we feel it just and proper that the petitioner be given an opportunity to place his contentions before the High Court properly. The High Court is requested to consider the impact on the mining lease granted to the petitioner and whether it would adversely affect the environment in that area and appropriate orders may be passed in this regard after affording opportunity to the parties concerned by the High Court at the earliest, at least within a period of six months. Accordingly, we set aside the order passed by the High Court and

direct the High Court to consider the matter afresh. Till such time, the petitioner shall not carry out any mining activity in the area in question.

The Special Leave Petition is disposed of accordingly.
No costs.

.....CJI
(K.G. BALAKRISHNAN)

.....J.
(P. SATHASIVAM)

.....J.
(Dr. B.S. CHAUHAN)

NEW DELHI;
29TH SEPTEMBER, 2009